

# QUALIFIED IMMUNITY AGAIN DENIED IN RECENT KENTUCKY CASE

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**I**n yet another search and seizure case, the Sixth Circuit Court of Appeals denied an officer qualified immunity for a warrantless entry into a residence. This has been a consistent recent trend from the Sixth Circuit Court of Appeals. Officers need to be mindful that the denial of qualified immunity does not mean that they automatically lose their case. The denial of qualified immunity means that the litigation will continue, along with both the personal and financial expenses, for a decision ultimately on the merit of the case, as determined by the jury or judge.

On May 30, 2005, an individual reported to the McCracken County Sheriff's Office that Plaintiff Phillip Murray Modrell's son, Richard Modrell, was delivering methamphetamine to local convenience stores while on duty as a Domino's Pizza delivery person. Richard Modrell resided at 256 Nickell Heights.

On June 7, 2005, Defendant Jon Hayden, a detective for the McCracken County Sheriff's Office, received a call from Bridgette Maxie, an employee of the Kentucky Department of Families and Children, concerning another complaint of illegal drug activity at 256 Nickell Heights. Maxie said that a caller reported that adults at the

residence used methamphetamine and crack cocaine, and that Michelle Lindsey and her 15-year-old daughter used marijuana together in the home. The caller also indicated that there were loaded guns in the house and that adults answered the door with guns in their hands. Pursuant to Maxie's request, Defendant Jesse Riddle, a deputy for the McCracken County Sheriff's Office, accompanied Maxie to the residence on June 8, 2005, so that her office could investigate the complaint.

Upon arrival at 256 Nickell Heights, Riddle knocked on the door and made contact with Phillip Murray Modrell. Riddle and Maxie informed Modrell that they were looking for Lindsey and her daughter. Modrell advised them that Lindsey and her daughter lived downstairs and that Riddle and Maxie would need to go around downstairs.

Riddle returned to his car and drove to the back of the house. After being joined by another deputy, Riddle knocked on the downstairs door at the rear of the residence. Richard Modrell answered the door and Riddle confirmed with him that Lindsey and her daughter were in the basement. Richard Modrell gave Riddle consent to search the basement residence. The search revealed methamphetamine >>